



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663
(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

February 29, 2012
Agenda Item No. 1

SUBJECT: Il Barone Expansion - (PA2012-009)
4251 Martingale Way, Suite A
▪ Minor Use Permit No. UP2012-002

APPLICANT: F&D Barone, Inc.

PLANNER: Erin Steffen, Planning Technician
(949) 644-3234., Esteffen@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC-11 (Newport Place) Planned Community
- **General Plan:** MU-H2 (Mixed-Use Horizontal 2)

PROJECT SUMMARY

A request to amend Minor Use Permit No. UP2011-008 (PA2011-047) to expand an existing 2,567-square-foot restaurant by converting 810 square feet of existing retail space to restaurant space, consisting of a private banquet room, restroom, server station, office and storage, and the addition of a 550-square-foot outdoor dining patio.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. ZA2012-006 approving Minor Use Permit No. UP2012-002 (Attachment No. ZA 1).

DISCUSSION

- The restaurant is located in an existing commercial development that contains a mix of uses, including professional offices, retail stores, personal service type uses, and other restaurants.

- The restaurant, including the proposed expansion and accessory outdoor dining addition, is allowed subject to the approval of a Minor Use Permit in the Planned Community. The restaurant is compatible with the land uses permitted within the surrounding neighborhood and complies with Section 20.48.090 (Eating and Drinking Establishments) in regards to the operating standards. This Minor Use Permit will be conditioned to maintain the requirements of Section 20.48.090.
- The total proposed square footage of the restaurant is 3,377 square feet, including the accessory outdoor dining area. The proposed interior net public area is 1,717 square feet, and the proposed outdoor net public area is 550 square feet.
- A restaurant has been operated at this location since the 1970's and pursuant to Use Permit No. 3656 since 1999. Use Permit No. UP3656, approved May 20, 1999, allowed for the remodel and expansion of the kitchen and the addition of a walk-up service window in conjunction with the existing restaurant operation.
- Use Permit No. UP2011-008, approved July 13, 2011, amended Use Permit 3656 to upgrade the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine, and Distilled Spirits) ABC License and to extend the operating hours from 9:00 p.m. to 11:00 p.m.
- This request will amend Use Permit No. UP2011-008 to allow for the expansion of the restaurant into an adjoining existing retail suite and the addition of an accessory outdoor dining area. Alterations will be made to the parking area fronting the building to accommodate the addition of the outdoor patio. These alterations will result in a net loss of 3 parking spaces; however, the site will still provide a surplus of parking spaces.
- Pursuant to the Newport Place Planned Community regulations, the NBMC regulates the parking requirement for the project because the net floor area of all the restaurants exceeds 20% of the net floor area of the entire retail-commercial center. Section 20.40.060 (Parking Requirements for Food Service Uses) of the NBMC establishes criteria to determine the parking requirements for uses from 1 parking space for every 30-50 square feet of net public area, plus the area of the outdoor dining area that is greater than 25% of the interior net public area or 1,000 square feet, whichever is less. Based on the low-turnover, sit-down characteristics of the restaurant with the sale of alcoholic beverages and no live entertainment or dancing, a parking requirement of 1 space for every 40 square feet of net public area is appropriate. Per existing and proposed parking tabulations (attached) the site will provide adequate parking spaces to accommodate the proposed use.
- The hours of operation, 10:00 a.m. to 11:00 p.m., and alcohol license, Type 47 On-Sale General (Beer, Wine, & Distilled Spirits), will remain the same.

ENVIRONMENTAL REVIEW

The project qualifies for i.e., Class 1 (Existing Facilities) categorical exemption, Section 15301 of the California Environmental Quality Act because the proposed projects

involves interior alterations to convert existing retail space to an eating and drinking establishment and the addition of an outdoor patio area for accessory dining.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD

An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:


Erin Steffen, Planning Technician

GR/ems

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Existing Parking Tabulation
	ZA 4	Proposed Parking Tabulation
	ZA 5	Applicant's Project Description and Justification
	ZA 6	Minor Use Permit No. UP2011-008 (Action Letter)
	ZA 7	Use Permit No. UP3656 (Minutes and Staff Report)
	ZA 8	Project Plans

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2012- 006

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-002 FOR THE EXPANSION AND ADDITION OF AN OUTDOOR DINING AREA TO AN EXISTING RESTAURANT LOCATED AT 4251 MARTINGALE WAY, SUITE A (PA2012-009)

THE ZONING ADMINSTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by F&D Barone Inc. with respect to property located at 4251 Martingale Way, Suite A, and legally described as Parcel Map Book 53, Page 53, Parcel 1, requesting approval of a Minor Use Permit.
2. The applicant requests a Minor Use Permit to amend Minor Use Permit No. UP2011-008 (PA2011-047) to expand an existing 2,567-square-foot restaurant by combining and converting 810 square feet of an existing, adjoining retail space to restaurant space, which will consist of a private banquet room, restroom, server station, office and storage; and adding a 550-square-foot outdoor dining patio. The hours of operation, 10:00 a.m. to 11:00 p.m., and alcohol license, Type 47 On-Sale General (Beer, Wine, & Distilled Spirits), will remain the same. No live entertainment or dancing is proposed.
3. The subject property is located within the PC-11 (Newport Place) Planned Community and the General Plan Land Use Element category is MU-H2 (Mixed-Use Horizontal).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 29, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act, pursuant to Section 15301 (Class 1 – Existing Facilities).
2. Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed projects involves interior alterations to convert existing retail space to an eating and drinking establishment and the addition of an outdoor patio area for accessory dining.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Findings and decision) of the NBMC, the following findings and facts in support of the findings for a Minor Use Permit are set forth:

Finding

A. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding

1. The General Plan land use designation for this site is MU-H2 (Mixed-Use Horizontal) which provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses in the Airport Area. The existing restaurant, including the proposed expansion and accessory outdoor dining addition, is consistent with this land use category.
2. Eating and drinking establishments are common in the vicinity and are frequented by the surrounding businesses, travelers that visit the City for business and pleasure, and residents of the City. The establishment is compatible with the land uses permitted within the surrounding neighborhood.
3. The subject property is not part of a specific plan area.

Finding

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding

1. The site is located within General Commercial Site 6 of the Newport Place Planned Community Zoning District. The restaurant, including the proposed expansion and accessory outdoor dining addition, is allowed subject to the approval of a Minor Use Permit in the Planned Community.
2. The proposed use complies with Section 20.48.090 (Eating and Drinking Establishments) in regards to the operating standards and the restaurant is required to adhere to those standards.
3. Pursuant to the Newport Place Planned Community regulations, the NBMC regulates the parking requirement for the project because the net floor area of all the restaurants exceeds 20% of the net floor area of the entire retail-commercial center. Section 20.40.060 (Parking Requirements for Food Service Uses) of the NBMC establishes criteria to determine the parking requirements for uses from 1 parking space for every 30-50 square feet of net public area, plus the area of the outdoor dining area that is

greater than 25% of the interior net public area or 1,000 square feet, whichever is less. Based on the low-turnover, sit-down characteristics of the restaurant with the sale of alcoholic beverages and no live entertainment or dancing, a parking requirement of 1 space for every 40 square feet of net public area is appropriate. Per existing and proposed parking tabulations the site will provide adequate parking spaces to accommodate the proposed use.

Finding

C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.

Facts in Support of Finding

1. The restaurant is located in an existing commercial development that contains a mix of uses, including professional offices, retail stores, personal service type uses, and other restaurants.
2. A restaurant has been operated at this location since the 1970s and pursuant to Use Permit 3656 since 1999. The use has not proven detrimental to the area. This demonstrates the location's capability of operating as a compatible use with other land uses in the vicinity.
3. The proposed project involves interior alterations to an adjoining suite to convert existing retail space to a food service, eating and drinking establishment and the addition of an outdoor patio area for accessory dining. Modifications will be made to the parking area fronting the building to accommodate the addition of the outdoor patio. These modifications will result in a net loss of parking spaces; however, the site will still provide a surplus of parking spaces.
4. The applicant is required to control trash and litter around the subject property.
5. The applicant has installed a grease interceptor and obtained Health Department approval. The establishment will comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.
6. A restaurant is a typical use in this area, and the establishment, as conditioned, will not be open late or operate as a bar or nightclub.
7. The hours of operation of the restaurant, including the outdoor patio, are restricted to the hours between 10:00 a.m. and 11:00 p.m., daily.
8. The proposed project is located within a nonresidential zoning district and surrounded by other nonresidential districts and uses. The establishment will comply with exterior noise standards as outlined by the Title 10 (Offenses and Nuisances) of the NBMC.

Finding

D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding

1. The existing building and parking lot have functioned satisfactory with the current configuration. The proposed project, which includes interior alterations to convert retail space to restaurant use and the addition of an outdoor patio, will not negatively affect emergency access.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the retail-commercial center.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. The project will comply with all ordinances of the City and all conditions of approval.

Finding

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The food service, eating and drinking establishment will continue to serve the surrounding commercial, visitor serving, and business community. The proposed establishment provides dining services as a public convenience to the surrounding neighborhood. The restrictions on seating and net public area prevent adverse traffic impacts.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-002, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. Minor Use Permit applications do not become effective until 14 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF FEBRUARY, 2012.

By: _____
Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. This approval supersedes Use Permit No. UP2011-008 (PA2011-047).
2. The development shall be in substantial conformance with the approved site plan and floor plan dated with this date of approval. (Except as modified by applicable conditions of approval.)
3. This Minor Use Permit may be modified or revoked by the Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
4. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Use Permit.
5. Minor Use Permit No. UP2012-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by either the current business owner, property owner or the leasing company.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
10. Prior to the issuance of building permits, any applicable Fair Share Traffic Contribution Fees shall be paid in accordance with Chapter 15.38 of the Newport Beach Municipal Code.
11. The indoor net public area shall be limited to a maximum of 1,717 square feet and 100 seats.

12. The outdoor dining area shall be limited to a maximum of 550 square feet in area and 42 seats.
13. The accessory outdoor dining shall be used only in conjunction with the related adjacent establishment.
14. The proposed food service, eating and drinking establishment, shall have a parking requirement of 1 space for every 40 square feet of net public area, plus the area of the outdoor dining area that is greater than 25% of the interior net public area or 1,000 square feet, whichever is less.
15. A copy of these conditions of approval shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
16. The hours of operation, including the outdoor dining area, for the eating and drinking establishment are limited from 10:00 a.m. to 11:00 p.m., daily.
17. Any increase in the hours of operation shall be subject to the approval of an amendment to this Minor Use Permit and may be subject to approval by the Zoning Administrator or Planning Commission.
18. The use of elevated counters, tables, and barstools are prohibited in the outdoor dining area.
19. The boundary of the accessory outdoor dining area shall be marked through the use of a 36-inch-high boundary rail, unless a higher rail or other marking is otherwise approved by the Community Development Director. Fences, walls, or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all weather enclosure.
20. Prior to issuance of building permits, plans for the outdoor dining/patio areas shall be reviewed and approved by the Planning Division. Final material, height, and location of the boundary rail shall be subject to approval by the Building and Planning Division staff.
21. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor patio dining areas. The outdoor patio dining areas, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.
22. The use of umbrellas for shade purposes shall be permitted. The use of any other type of overhead covering shall be subject to review and approval by the Community Development Director and may require an amendment to this permit.
23. The size, design, and location of trash enclosures shall be subject to the review and approval of the Public Works and Planning Division prior to issuance of building permits.

24. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this use permit.
25. Any changes to the existing parking lot design require review and approval from the Public Works Department.
26. An encroachment permit is required for all work activities within the public right-of way.
27. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
28. No live entertainment or dancing shall be permitted in conjunction with the permitted use.
29. Employees shall park on-site.
30. No amplified music, public address speakers, outside paging system, loudspeaker, sound system or other noise generating device shall be utilized in conjunction with this establishment.
31. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Il Barone Minor Use Permit, including, but not limited to, Use Permit No. UP2012-002 (PA2012-009). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
32. Kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
33. The applicant shall provide a Type I hood with a kitchen suppression system for cooking equipment.

34. Provide a washout area with a minimum useable area dimension of 36-inches-wide, by 36-inches-deep, by 72-inches-high shall be provided inside the facility or outside of the tenant space in a readily accessible area within a portion of the screened area or refuse containers in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department and Public Works Department in conjunction with the approval of an alternative drainage plan.

Police Department Conditions

35. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility.
36. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
37. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indication the availability of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
38. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.
39. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
40. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on command.
41. There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
42. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
43. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.

44. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
45. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
46. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



Minor Use Permit No. UP2012-002
PA2012-009

4251 Martingale Way, Suite A

Attachment No. ZA 3

Existing Parking Tabulation

Existing Parking Tabulation for MacArthur Square General Commercial Center

Bldg	Address	Tenant	Use	Discretionary Action	GSF	NPA	Parking Requirements	No. of Spaces Required
A	4255 Martingale # A	Airport Wine & Spirits	General Commercial - Liquor Store	NA	2489		1/250 NFA	9.956
A	4255 Martingale #B	Barbery Coast	General Commercial - Beauty Parlor	NA	780		1/250 NFA	3.12
A	4255 Martingale # C	Kiros Catering (Office Only)	Professional Office	NA	768		1/250 NFA	3.072
A	4255 Martingale #D	Dr. John Koningh	Medical	NA	1092		1/250 NFA	4.368
B	1701 Corinthian #D	Couture Bridal Salon	General Commercial - Bridal Shop	NA	920		1/250 NFA	3.68
B	1701 Corinthian #E-F	Yi Dynasty Korean BBQ	Restaurant	UP2004-022 (PA2004-130)	4400	2118	19 (1/40 NPA, 34 Waived)	19
B	1701 Corinthian #H	Xcel Sport & Fitness	General Commercial - Fitness & Workout	NA	942		1/250 NFA	3.768
B	1701 Corinthian #I	Gwen David Designs	General Commercial - Flower Shop	NA	1448		1/250 NFA	5.792
B	1701 Corinthian #G	99 Orange Chicken	Restaurant	UP3311/MD3676	825		5 (1/50 GFA, plus 1 per employee (4 employess), 16 spaces were waived)	5
C	4250 Scott Drive #K	Dr. Peter V. Le, DDS	Medical - Dental	NA	1274		1/250 NFA	5.096
C	4250 Scott Drive #J	Sung Sim Lydon, DDS	Medical - Dental	NA	1185		1/250 NFA	4.74
C	4250 Scott Drive #N	Green Hanger Cleaners	General Commercial - Drycleaners	NA	1650		1/250 NFA	6.6
C	4250 Scott Drive #L-O	Avant Garde Ballroom #2	General Commercial - Dance Studio	NA	2922		1/250 NFA	11.688
D	4251 Martingale #A	Il Barone Restaurant	Restaurant	UP2011-008 (PA2011-047)	2567	1200	1/200 NFA	12.835
D	4251 Martingale #B-1	Tech Optics	Professional Office	NA	480		1/250 NFA	1.92
D	4251 Martingale #B-2	Private Pilates	General Commercial - Fitness & Workout	NA	480		1/250 NFA	1.92
D	4251 Martingale #C	Vacant	Professional Office	NA	712		1/250 NFA	2.848
D	4251 Martingale #D	Talisse Development	General Commercial - Showroom	NA	884		1/250 NFA	3.536
D	4251 Martingale #E	Ritter Chiropractic	Medical	NA	1100		1/250 NFA	4.4
D	4251 Martingale #F	Luxury Nails	General Commercial - Beauty Salon	NA	895		1/250 NFA	3.58
D	4251 Martingale #G	Vacant	General Office	NA	810		1/250 NFA	3.24
E	1660 Dove, Ste A	Donut Depot	General Commercial - Specialty Shop	NA	822		1/250 NFA	3.288
E	1660 Dove, Ste B	Arnie's Manhattan Deli	Restaurant	UP1811	5500	3229	(1/40 NPA)	80.725
E	1660 Dove, Ste C	Kiros Catering	General Commercial - Specialty shop	NA	474		1/250 NFA	1.896
E	1660 Dove, Ste D	Vacant	Professional Office	NA	1027		1/250 NFA	4.108
F	4253 Martingale, #A	Tapas	Restaurant	UP3510	4208	2768	24 (1/40 NPA, 46 waived)	24
F	4253 Martingale, #C	Tapas - Business Office	Professional Office	NA	797		1/250 NFA	3.188
F	4253 Martingale, #D	Tapas	General Commercial - Dance Studio	NA	1250		1/250 NFA	5
G	4200 Scott Drive	Hokkaido	Restaurant	NA	9264	4296	1/200 NFA	46.32
H	4220 Scott Drive	Avant Garde ballroom #1	General Commercial - Dance Studio	NA	4950		1/250 NFA	19.8
				Total Sq. Ft.	56915		Loading Spaces (1 per 10,000 GSF)	5.6915
Total Number of Parking Spaces Required								304.2195
Total Number of Parking Spaces Provided								366
Parking Surplus/(Shortfall)								61.7805

GSF = Gross Square Footage

NAP = Net Public Area

NFA - Net Floor Area

Breakdown of Restaurants		
Address	Tenant	GSF
1701 Corinthian #E-F	Yi Dynasty Korean BBQ	4400
1701 Corinthian #G	99 Orange Chicken	825
4251 Martingale #A	Il Barone Restaurant	2567
1660 Dove, Ste B	Arnie's Manhattan Deli	5500
4253 Martingale, #A	Tapas	4208
4200 Scott Drive	Hokkaido	9264
Total Square Footage		26764
% of Commercial Center		47.02%

Attachment No. ZA 4

Proposed Parking Tabulation

Proposed Parking Tabulation for MacArthur Square General Commercial Center

Bldg	Address	Tenant	Use	Discretionary Action	GSF	NPA	Parking Requirements	No. of Spaces Required
A	4255 Martingale # A	Airport Wine & Spirits	General Commercial - Liquor Store	NA	2489		1/250 NFA	9.956
A	4255 Martingale #B	Barbery Coast	General Commercial - Beauty Parlor	NA	780		1/250 NFA	3.12
A	4255 Martingale # C	Kiros Catering (Office Only)	Professional Office	NA	768		1/250 NFA	3.072
A	4255 Martingale #D	Dr. John Koningh	Medical	NA	1092		1/250 NFA	4.368
B	1701 Corinthian #D	Couture Bridal Salon	General Commercial - Bridal Shop	NA	920		1/250 NFA	3.68
B	1701 Corinthian #E-F	Yi Dynasty Korean BBQ	Restaurant	UP2004-022 (PA2004-130)	4400	2118	19 (1/40 NPA, 34 Waived)	19
B	1701 Corinthian #H	Xcel Sport & Fitness	General Commercial - Fitness & Workout	NA	942		1/250 NFA	3.768
B	1701 Corinthian #I	Gwen David Designs	General Commercial - Flower Shop	NA	1448		1/250 NFA	5.792
B	1701 Corinthian #G	99 Orange Chicken	Restaurant	UP3311/MD3676	825		5 (1/50 GFA, plus 1 per employee (4 employess), 16 spaces were waived)	5
C	4250 Scott Drive #K	Dr. Peter V. Le, DDS	Medical - Dental	NA	1274		1/250 NFA	5.096
C	4250 Scott Drive #J	Sung Sim Lydon, DDS	Medical - Dental	NA	1185		1/250 NFA	4.74
C	4250 Scott Drive #N	Green Hanger Cleaners	General Commercial - Drycleaners	NA	1650		1/250 NFA	6.6
C	4250 Scott Drive #L-O	Avant Garde Ballroom #2	General Commercial - Dance Studio	NA	2922		1/250 NFA	11.688
D	4251 Martingale #A & #G	Il Barone Restaurant	Restaurant	UP2011-008 (PA2011-047)	3377	2267	1/40 NPA, plus the area of outdoor dining greater than 25% of the interior NPA; Interior Net Public Area = 1717; Outdoor Net Public Area = 550; 1717 + (550 - (1717*.25))=1837.75/40 = 46 parking spaces	45.94375
D	4251 Martingale #B-1	Tech Optics	Professional Office	NA	480		1/250 NFA	1.92
D	4251 Martingale #B-2	Private Pilates	General Commercial - Fitness & Workout	NA	480		1/250 NFA	1.92
D	4251 Martingale #C	Vacant	Professional Office	NA	712		1/250 NFA	2.848
D	4251 Martingale #D	Talisse Development	General Commercial - Showroom	NA	884		1/250 NFA	3.536
D	4251 Martingale #E	Ritter Chiropractic	Medical	NA	1100		1/250 NFA	4.4
D	4251 Martingale #F	Luxury Nails	General Commercial - Beauty Salon	NA	895		1/250 NFA	3.58
E	1660 Dove, Ste A	Donut Depot	General Commercial - Specialty Shop	NA	822		1/250 NFA	3.288
E	1660 Dove, Ste B	Arnie's Manhattan Deli	Restaurant	UP1811	5500	3229	81 spaces (1/40 NPA)	80.725
E	1660 Dove, Ste C	Kiros Catering	General Commercial - Specialty shop	NA	474		1/250 NFA	1.896
E	1660 Dove, Ste D	Vacant	Professional Office	NA	1027		1/250 NFA	4.108
F	4253 Martingale, #A	Tapas	Restaurant	UP3510	4208	2768	24 (1/40 NPA, 46 waived)	24
F	4253 Martingale, #C	Tapas - Business Office	Professional Office	NA	797		1/250 NFA	3.188
F	4253 Martingale, #D	Tapas	General Commercial - Dance Studio	NA	1250		1/250 NFA	5
G	4200 Scott Drive	Hokkaido	Restaurant	NA	9264	4296	1/200 NFA	46.32
H	4220 Scott Drive	Avant Garde ballroom #1	General Commercial - Dance Studio	NA	4950		1/250 NFA	19.8
Total Sq. Ft.					56915		Loading Spaces (1 per 10,000 gross sq. ft.)	5.6915
Total Number of Parking Spaces Required								344.04425
Total Number of Parking Spaces Provided								363
Parking Surplus/(Shortfall)								18.95575

Breakdown of Restaurants		
Address	Tenant	GSF
1701 Corinthian #E-F	Yi Dynasty Korean BBQ	4400
1701 Corinthian #G	99 Orange Chicken	825
4251 Martingale #A	Il Barone Restaurant	3377
1660 Dove, Ste B	Arnie's Manhattan Deli	5500
4253 Martingale, #A	Tapas	4208
4200 Scott Drive	Hokkaido	9264
Total Square Footage		27574
% of Commercial Center		48.45%

GSF = Gross Square Footage

NAP = Net Public Area

NFA - Net Floor Area

Attachment No. ZA 5

Applicant's Project Description and
Justification



New Vision Company

New Vision Company
5318 East 2nd Street #666
Long Beach, CA 90803

January 20, 2012

City of Newport Beach Planner
Planning Department
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Subject: Il Barone Ristorante Expansion Minor Use Permit Modification

Dear City of Newport Beach Planner:

This Minor Use Permit Application submittal is in regard to Il Barone Ristorante Expansion located at 4251 Martingale Way Suite G. On behalf of F&D Barone Incorporated, New Vision Company is requesting a modification to the existing Minor Use Permit No. UP2011-008 (PA2011-047) to increase the restaurant interior net public area from its current size of 1,200 square feet with a maximum seating and/or stand-up counter space of 65 customers to 1,717 square feet of interior net public area with a maximum seating and/or stand-up counter space of 100 customers, and to include a new outdoor patio expansion of 550 square feet of net public area with a maximum seating and/or stand-up counter space of 42 customers. All other requirements of Minor Use Permit UP2011-008 (PA2011-047) will remain the same including hours of operation (10:00 a.m. to 11:00 p.m. daily), number of employees, and use.

Project Description:

Interior Expansion Description

The proposed interior expansion will take place in the space adjoining the existing restaurant, located at 4251 Martingale Way Suite A (Space 24 on the Overall Tenant Site Plan). The proposed expansion space will be a total of 810 square feet of area, and consists of a private banquet room, restroom, server station, office, and storage. The proposed net public area of the interior expansion space will be 517 square feet with a total capacity of 34 seats (layout according to Overall Public Use Area Floor Plan).

Exterior Patio Expansion Description

The proposed exterior patio expansion will be located on the north-east and east sidewalk space adjacent to the existing restaurant space, and will constitute an area of 550 square feet with a total capacity of 42 seats (layout according to Overall Public Use Area Floor Plan). The total patio area will be broken into 3 spaces. Planters will enclose each space with entry points located at one side. A minimum 48-inch width for path of travel and exiting purposes will be made clear between patio spaces. In order to accommodate the eastern most patio area, 3 parking spaces must be removed from the existing parking capacity (according to Overall New Parking Site Plan). New landscaping will be added to dress the exterior patio area facing the parking lot of the eastern most patio space.

Parking Analysis:

Parking Ratios

Due to the tenant mix of the development being over 25% restaurants and to take into consideration the future capacity needs of the center, a new parking ratio of 1 parking stall per 40 square feet of public use area has been used to evaluate the parking needs of the proposed expansion.

The existing parking analysis concludes that there is a total of 366 parking stalls, 11 of which are handicap stalls, in the development to be shared among the tenant mix. Based on the existing entitled parking ratios, the required number of parking stalls equals 306 with a surplus of 60 stalls.

PA2012-009 for UP2012-002
4251 Martingale Way, Suite A
F&D Barone, Inc.

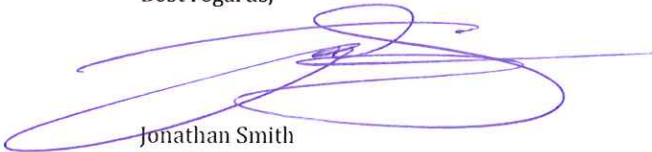
The proposed Il Barone Ristorante Expansion, with a new parking ratio of 1 parking stall for every 40 square feet of public use area, will require 46 parking stalls, which is an increase of 33 over the 14 parking stalls required by the previous 1 parking stall per 200 square feet of net floor area. The calculation of the new parking requirement is based on the following:

Existing Restaurant:	Net Floor Area = 2567sf/200sf = 14 parking stalls
	Public Use Area = 1200sf
New Expansion Space:	Net Floor Area = 810sf
	Public Use Area = 517sf
New Patio Space:	Net Floor Area = 550sf
	Public Use Area = 550sf
New Total Space:	Net Floor Area = 3377sf
	Public Use Area = 1717sf + (550 - (1717*.25 = 430) = 120) = 1837/40 =
	46 parking stalls

The 46 required parking stalls, along with the reevaluated parking ratios of the entire development, will equal a total required parking space number of 345, equating to a parking surplus of 18 stalls out of the 363 stalls provided, 11 of which are handicap stalls.

Thank you for your time and consideration in this matter. Please contact me if you have any questions or concerns that I may be able to address for you.

Best regards,



Jonathan Smith
President
New Vision Company
5318 East 2nd Street #666
Long Beach, CA 90803
(310) 684-3140

jds

Attachment No. ZA 6

Minor Use Permit No. UP2011-008



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

ZONING ADMINISTRATOR ACTION LETTER

Application No. **Use Permit No. UP2011-008**
 (PA2011-047)

Applicant **il Barone Ristorante**

Site Address **4251 Martingale Way, Suite A**
 il Barone Minor Use Permit

Legal Description **P BK 53 PG 13 PAR 1**

On **July 13, 2011**, the Zoning Administrator approved the following: A minor use permit to amend existing Use Permit 3656 to upgrade the existing Type 41 On-Sale Beer and Wine ABC license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) ABC License and to extend the operating hours of a Food Service, no late hours establishment from 9:00 p.m. to 11:00 p.m. Project implementation includes no construction. The property is located in the Newport Place Planned Community (PC-11). The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

REQUIRED FINDINGS

Finding

- A. *The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15301 of the California Environmental Quality Act under Class 1 (Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act.*

Facts in Support of Finding

- A-1. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the change of the type alcohol beverage license and the extension of hours of an existing restaurant with no construction proposed. Therefore, the existing restaurant use qualifies for a categorical exemption under Class 1.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- B. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

- B-1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of beer, wine and distilled spirits is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
- B-2. The hours of operation will minimize the potential effects of noise on neighboring businesses to preserve the health and safety for visitors and other businesses in the neighborhood.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- C. *The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

- C-1. The General Plan land use designation for this site is MU-H2 (Mixed-Use Horizontal). The MU-H2 provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses in the Airport Area. The existing restaurant, including the proposed Type 47 ABC license and extended hours of operation, is consistent with this land use category.
- C-2. Eating and drinking establishments are common in the vicinity and are frequented by the surrounding businesses, travelers that visit the City for business and pleasure (in the Airport Area) and residents of the City alike. The establishment is compatible with the land uses permitted within the surrounding neighborhood.
- C-4. The subject property is not part of a specific plan area.

Finding

- D. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

Facts in Support of Finding

- D-1. The site is located in the Newport Place (General Commercial Site 6) Planned Community Zoning District. The restaurant, including the proposed Type 47 ABC license and extended hours of operation, is allowed subject to the approval of a minor use permit in the Planned Community.

Finding

- E. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

- E-1. The operation of the restaurant was previously restricted to the closing hour of 9:00 p.m., daily by Condition No. 11 of Use Permit 3656. Extending the closing hour to 11:00 p.m., daily will not create incompatibility with the surrounding uses as the hour is still not considered late and the surrounding uses are comprised of commercial businesses and restaurants.
- E-2. A restaurant has been operated at this location since the 1970's and pursuant to Use Permit 3656 since 1999. The use has not proven detrimental to the area. This demonstrates the location's capability of operating as a compatible use with other land uses in the vicinity.
- E-3. The applicant is required to control trash and litter around the subject property.
- E-4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
- E-5. The applicant has installed a grease interceptor and obtained Health Department approval. The establishment will comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.

Finding

- F. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

- F-1. The project site is located within an existing retail building and the tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
- F-2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing tenant space.

Finding

- G. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- G-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
- G-2. The food service, eating and drinking establishment will continue to serve the surrounding commercial, visitor serving (Airport Area), and business community. The proposed establishment provides dining services as a public convenience to the surrounding neighborhood. The continued service of alcohol will provide an economic opportunity for the property owner to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.

CONDITIONS OF APPROVAL

1. *This approval supersedes Use Permit 3656.*
2. The development shall be in substantial conformance with the approved site plan and floor plan dated with this date of approval. (Except as modified by applicable conditions of approval.)

3. This Use Permit may be modified or revoked by the Zoning Administrator upon a finding of failure to comply with the conditions set forth in Chapter 20.82 of the Municipal Code, other applicable conditions and regulations governing the food establishment, or should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
4. This approval is only for the establishment of a Food Service, no late hours establishment as defined by Title 20 of the Municipal code, as the principal purpose for the sale or service of food and beverages.
5. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
6. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
7. Use Permit No. UP2011-008 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
8. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by either the current business owner, property owner or the leasing company.
9. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
10. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
11. *The hours of operation for the eating and drinking establishment are limited from 10:00 a.m. to 11:00 p.m., daily. Any increase in the hours of operation shall be subject to the approval of an amendment to this Use Permit and may be subject to approval by the Zoning Administrator or Planning Commission.*
12. *The "net public area" shall be limited to a maximum of 1,200 square feet in area. The maximum seating and/or stand-up counter space for no more than 65 customers shall be maintained in the subject eating and drinking establishment. Any increase in the number of seating and/or stand-up counter*

space for customers shall be subject to the approval of an amendment to this Use Permit issued by the Zoning Administrator.

13. *One parking space for each 200 square feet of gross floor area of the tenant space (14 spaces) shall be provided on-site.*
14. *No live entertainment or dancing shall be permitted in conjunction with the permitted use.*
15. Employees shall park on-site.
16. The operator of the facility shall be responsible for the control of noise generated on the subject facility including, but not limited to, noise generated by patrons and food service operations. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

17. No amplified music, public address speakers, outside paging system, loudspeaker, sound system or other noise generating device shall be utilized in conjunction with this establishment.
18. All mechanical equipment (including rooftop equipment) shall be fully screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control and shall comply with the height limitations of the Zoning District.
19. All trash areas shall be screened from the adjoining properties and streets.
20. All proposed signs shall be in conformance with the provisions of Chapter 20.42 of the Newport Beach Municipal Code.

21. No temporary "sandwich" signs, banners, balloons or similar temporary signs or attention attracting devices shall be permitted, either on-site or off-site, to advertise the food establishment, unless specifically permitted in accordance with the Sign Ordinance of the Newport Beach Municipal Code, Chapter 20.42.
22. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
23. The area outside of the food establishment, including the public sidewalk, shall be maintained in a clean and orderly manner. The exterior of the business including the common seating areas of the shopping center shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
24. Trash receptacles for patrons shall be conveniently located both inside and outside of the proposed facility, but not located on or within any public property or right-of-way, unless otherwise approved by the Public Works Department.
25. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
26. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
27. Storage outside of the building in the front or at the rear of the property (except within a fully screened enclosure approved by the Planning Department) shall be prohibited, with the exception of the required trash container enclosure.
28. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's

fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **il Barone Minor Use Permit including**, but not limited to, **Use Permit No. UP2011-008 (PA2011-047)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

29. Kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
30. The applicant shall provide a Type I hood with a kitchen suppression system for cooking equipment.
31. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems, unless otherwise approved by the Building Department and the Public Works Department. The facility shall comply with the provisions of Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal.
32. Provide a washout area with a minimum useable area dimension of 36-inches-wide, by 36-inches-deep, by 72-inches-high shall be provided inside the facility or outside of the tenant space in a readily accessible area within a portion of the screened area or refuse containers in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department and Public Works Department in conjunction with the approval of an alternative drainage plan.
33. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Department.
34. The project shall comply with State Disabled Access requirements.
35. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Department.

36. All exits shall remain free of obstructions and available for ingress and egress at all times. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Department.

Police Department Conditions

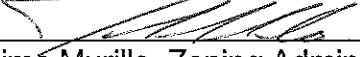
37. *The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility.*
38. *This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.*
39. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*
40. *There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indication the availability of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.*
41. *No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*
42. *The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based up on monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
43. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on command.*
44. *There shall be no on-site radio television, video, film, or other electronic or media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.*
45. *Live entertainment and dancing shall be prohibited as a part of the regular operation of the establishment.*

46. *No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.*
47. *Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.*
48. *Strict adherence to maximum occupancy limits is required.*
49. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.*
50. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
51. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD: Use Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

By: 
Jaime Murillo, Zoning Administrator
JM/msw

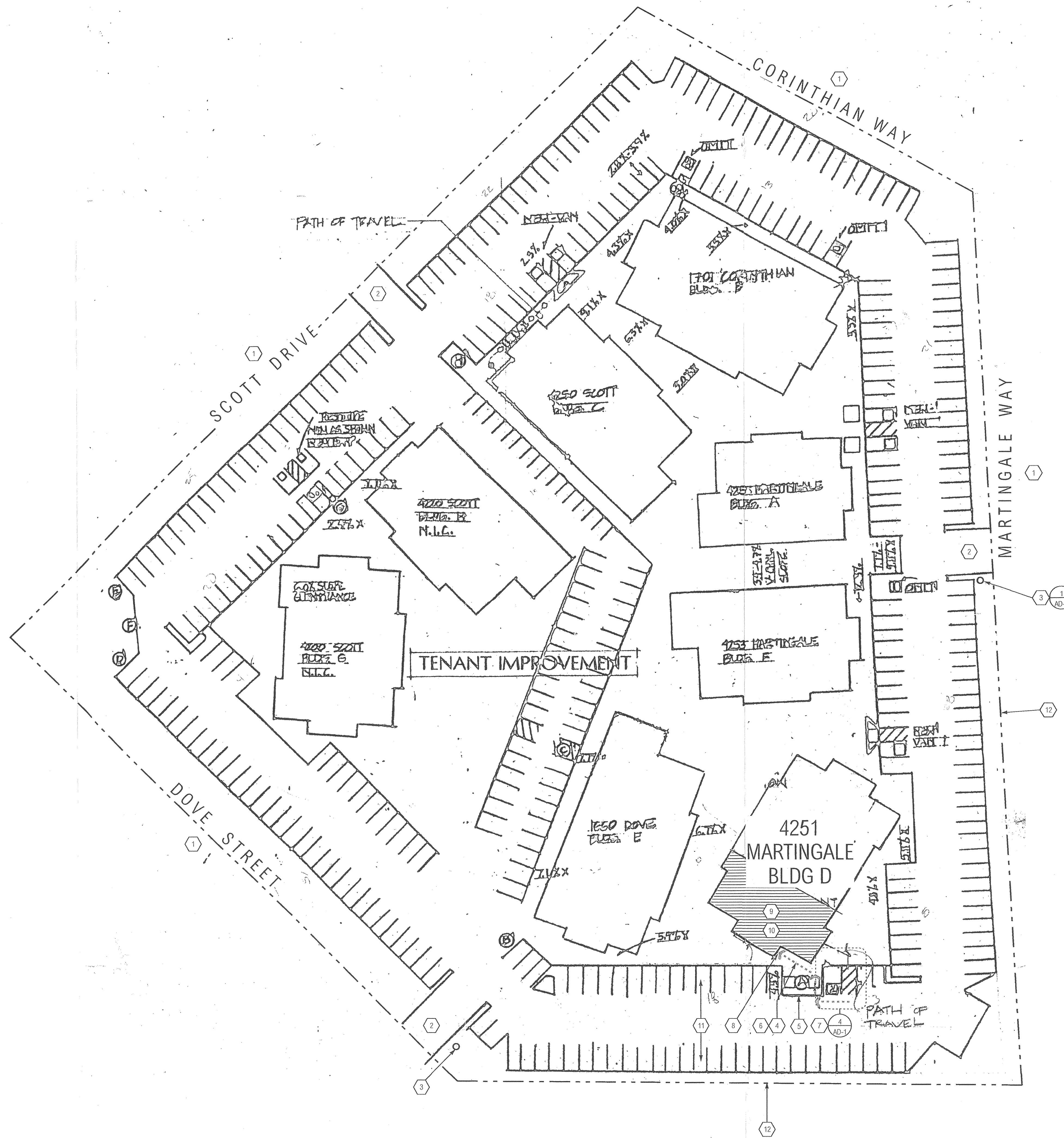
Attachments: Vicinity Map

VICINITY MAP



Minor Use Permit No. UP2011-008
PA2011-047

4251 Martingale Way, Suite A



EXISTING OVERALL SITE PLAN
SCALE: NTS

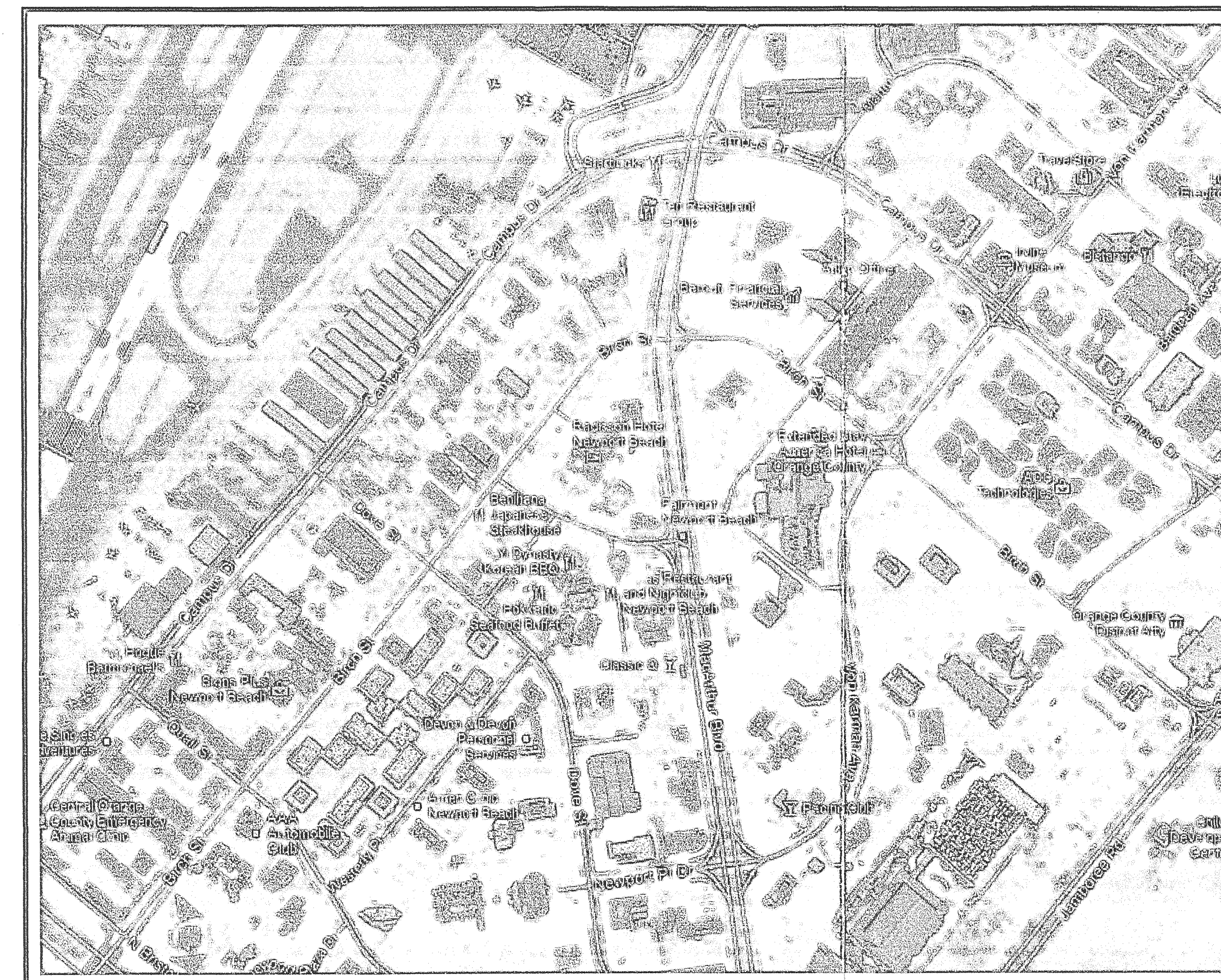
- KEYNOTES:**
1. EXISTING STREET TO REMAIN.
 2. EXISTING CURB CUT PER CITY STANDARDS.
 3. ACCESSIBLE PARKING STALL COMPLIANCE SIGNAGE AT DRIVEWAY ENTRANCES INTO SITE. SEE DETAIL 2/40-1.
 4. EXISTING ACCESSIBLE PATH OF TRAVEL FROM STALLS TO PRIMARY ENTRANCE. APPROVED UNDER BUILDING SHELL PERMIT. FIELD INSPECTOR SHALL VERIFY THAT SITE COMPLIES WITH DIVISION 9 BELOW.
 5. EXISTING ZERO CURB WHEEL CHAIR ACCESS.
 6. EXISTING ADA ACCESSIBLE WALK. NOTE MAX SLOPE IN THE DIRECTION OF TRAVEL IS 4.9% MAX CROSS SLOPE NOT TO EXCEED 2%.
 7. EXISTING ADA ACCESSIBLE PARKING STALLS. INSTALLED UNDER SHELL PERMIT. SEE ENLARGED DETAIL 4/40-1.
 8. EXISTING PRIMARY BUILDING ENTRANCE - ACCESSIBLE PER ADA & T-24 GUIDELINES. PROVIDE SIGNAGE PER NOTES ON DETAIL 2/40-1.
 9. EXISTING BUILDING CONSTRUCTED UNDER SHELL PERMIT.
 10. EXISTING RESTAURANT BUSINESS REQUESTING PLANNING DEPARTMENT APPROVAL FOR USE PERMIT NUMBER 3656.
 11. EXISTING TYPICAL STANDARD PARKING STALL, NO CHANGE.
 12. EXISTING PROPERTY LINE.

SHEET INDEX

ARCHITECTURAL	SITE PLAN, VICINITY MAP AND PROJECT DATA
A1-1	EXISTING FLOOR PLAN AND DINING ROOM AREA
A2-2	EXISTING KITCHEN DRAWING AND EQUIPMENT SCHEDULE

CODE SUMMARY / PROJECT DATA

EXISTING DINING AREA	1,200 SF
EXISTING SUPPORT AREAS (RESTROOMS, STORAGE)	532 SF
EXISTING KITCHEN AREA	878 SF
TOTAL AREA:	2,608 SF
OCCUPANCY:	(EXISTING WHEN BUILDING WAS BUILT) A-3
NUMBER OF STORIES:	ONE
CONSTRUCTION TYPE:	(EXISTING WHEN BUILDING WAS BUILT) TYPE VN
FIRE SPRINKLERS:	NONE
FIRE ALARM:	NO
OCCUPANT LOADS:	65 OCCUPANTS
BUILDING CODES:	2007 CALIFORNIA BUILDING CODE (CBC) 2007 CALIFORNIA MECHANICAL CODE (CMC) 2007 CALIFORNIA ELECTRIC CODE (CEC) 2007 CALIFORNIA PLUMBING CODE (CPC) 2007 CALIFORNIA ENERGY CODE 2007 CALIFORNIA FIRE CODE (CFC)



VICINITY MAP

RG A

Office of Architectural Design

15251 Alton Parkway, Suite 100
Irvine, CA 92618

T 949-341-0920
F 949-341-0922

CONSULTANT

PROFESSIONAL SEALS

PROJECT ADDRESS:
4251 MARTINGALE WAY
SUITE A
NEWPORT BEACH, CA
92660

APPLICANT:
F & D Barone, Inc.
Doing Business as
"il Barone Ristorante"
Attn: Donatella Barone
4251 Martingale Way, Suite A
Newport Beach, CA 92660
Phone: 949-955-2755

CONTACT:
Michael Cho, Esq.
Bernard & Associates
3991 MacArthur Blvd., Suite 340
Newport Beach, CA 92660
Phone: 949-263-1511

CD		
BID		
PC		
DD		
SD	4/27/11	SCHEMATIC DESIGN
MARK	DATE	DESCRIPTION

RG A PROJECT NO:	09174.00
OWNER PROJECT NO:	00000.00
CAD FILE NAME:	09174.00.A1-1
DRAWN BY:	MG
CHKD BY:	DR
COPYRIGHT	RG A, OFFICE OF ARCHITECTURAL DESIGN
SHEET TITLE	SITE PLAN

PA2011-047 for UP2011-008
4251 Martingale Way, Suite A
F&D Barone Inc.

RECEIVED BY
PLANNING DEPARTMENT
JUN 2 2011
CITY OF NEWPORT BEACH

04-29-2011

APPLICANT:
F & D Barone, Inc.
Doing Business as
"il Barone Ristorante"
Attn: Donatella Barone
251 Martingale Way, Suite A
Newport Beach, CA 9266
Phone: 949-955-2755

CONTACT:
Michael Cho, Esq.
Bernard & Associates
991 MacArthur Blvd., Suite 340
Newport Beach, CA 92660
Phone: 949-263-1511

[illegible]

SHEET TITLE _____

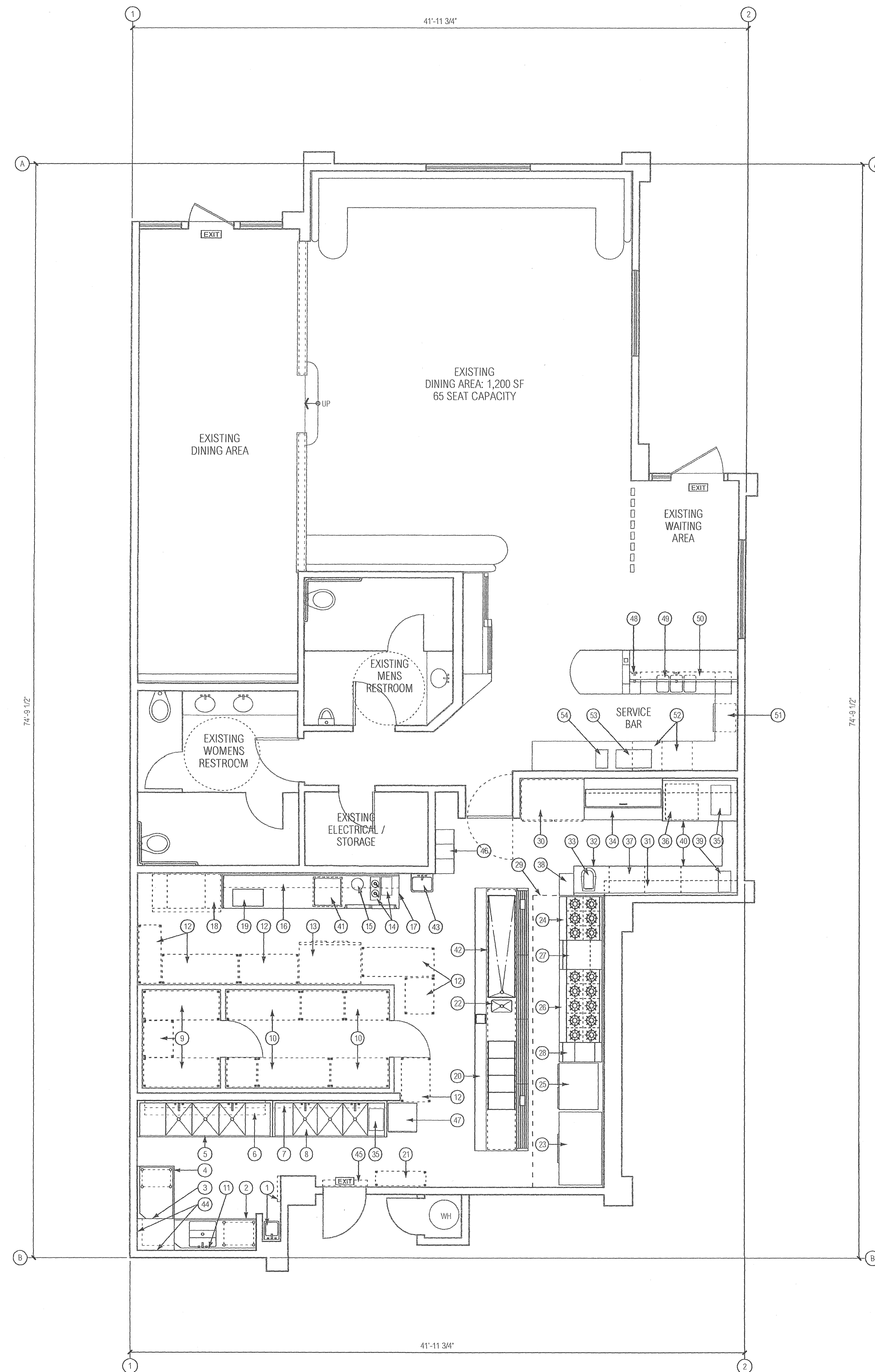
DINING AREA FLOOR PLAN

SCALE: 1/4" = 1'-0"

PROJECT ADDRESS:
4251 MARTINGALE WAY
SUITE A
NEWPORT BEACH, CA
92660APPLICANT:
F & D Barone, Inc.
Doing Business as
"il Barone Ristorante"
Attn: Donatella Barone
4251 Martingale Way, Suite A
Newport Beach, CA 92660
Phone: 949-955-2755CONTACT:
Michael Cho, Esq.
Bernard & Associates
3991 MacArthur Blvd., Suite 340
Newport Beach, CA 92660
Phone: 949-263-1511

EQUIPMENT SCHEDULE

ITEM NO.	QTY.	DESCRIPTION
1	1	MOP SINK & MOP RACK
2	1	S/S SOILED DISHTABLE
3	1	PRISM DISHMACHINE
4	1	S/S CLEAN DISHTABLE
5	1	S/S POT SINK (3-COMPARTMENT)
6	1	POT RACK
7	1	WALL SHELF
8	1	VEGETABLE PREP. SINK
9	1 LOT	REFRIGERATOR SHELVING
10	1 LOT	FREEZER SHELVING
11	1	PRE-RINSE
12	1 LOT	DRY STORAGE SHELVING
13	1	CONTINENTAL REFRIGERATOR #2R
14	1	COFFEE BREWER & MAKER BY COFFEE CO.
15	1	ICE TEA DISPENSER BY OTHERS
16	1	WALL SHELF
17	1	SERVICE COUNTER
18	1	ICE MACHINE & BIN
19	1	BREAD WARMER
20	1	CHEF'S COUNTER
21	1	JANITOR'S STORAGE SHELVING BY OTHERS
22	1	S/S WORK SINK
23	1	4 DRAWER PIZZA OVEN
24	1	(6) OPEN BURNERS
25	1	LANG CONVECTION OVEN #ECCO-C5
26	1	JADE (10) OPEN BURNERS #JHP-1060
27	1	FLAT TOP COOKER
28	1	DEEP FRYER
29	1	EXHAUST HOOD
30	1	BEVERAGE-AIR REACH-IN FREEZER
31	1	WALL SHELF
32	1	S/S WORK TABLE
33	1	HOBART MIXER #A200-BENCH MODEL (VERIFY)
34	1	PIZZA PREP. TABLE
35	1	BERKEL SLICER
36	1	UNDERCOUNTER HOLDING CABINET
37	1	WELLS HOT FOOD WELL #MOD-100TD
38	1	S/S WORK COUNTER
39	1	P.O.S.
40	1	S/S COUNTER W/OVERSHELF
41	1	DRINK DISP. BY OWNER
42	1	OPEN S/S SHELVES
43	1	HAND SINK
44	1 LOT	S/S WALL FLASHING
45	1	AIR CURTAIN BY G.C.
46	1	LOCKERS BY OWNER



EXISTING KITCHEN FLOOR PLAN AND EQUIPMENT SCHEDULE

SCALE: 1/4\" = 1'-0"

Attachment No. ZA 7

Use Permit No. UP3656



CITY OF NEWPORT BEACH

P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

PLANNING DEPARTMENT
(949) 644-3210

NOTICE OF FINAL APPROVAL

DATE: June 16, 1999
TO: Mr. Wai Lee
FROM: Planning Director
SUBJECT: Use Permit No. 3656

Please be advised that Use Permit No. 3656, which was approved by the Planning Commission at its meeting of May 20, 1999, became effective on June 10, 1999. The final findings and conditions of approval are attached. Any deviation from them or the application and plans on file in the Planning Department may require an amendment to the application(s) mentioned above for the project.

Applicant: The Pleasant Peasant French Country Bistro

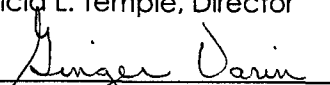
Location: 4251 Martingale Way, Unit A

Description: Request to allow a remodel and expansion of the kitchen in an existing eating and drinking establishment. The application also includes a request to allow the addition of a walk-up service window in conjunction with the existing restaurant operation.

Should you have any questions, please contact our office.

Very truly yours,
PLANNING DEPARTMENT
Patricia L. Temple, Director

By


Ginger Varin

Executive Secretary Planning Commission

Enclosure: ☒ Approved Planning Commission minutes with Final Findings and Conditions of Approval
☐ Approved Council minutes with Final Findings and Conditions of Approved
☐ Approved minutes

cc: Property Owner (if not applicant)

3300 Newport Boulevard, Newport Beach

**City of Newport Beach
Planning Commission Minutes
May 20, 1999**

INDEX

Ayes: Fuller, Tucker, Ashley, Selich, Gifford, Kranzley and Hoglund
Noes: None
Absent: None
Abstain: None

SUBJECT: **The Pleasant Peasant French Country Bistro
(Wai Lee, applicant)
• 4251 Martingale Way, Unit A**

**Item No. 2
Pleasant Peasant
Use Permit No. 3656**

Request to allow a remodel and expansion of the kitchen in an existing eating and drinking establishment. The application also includes a request to allow the addition of a walk-up service window in conjunction with the existing restaurant operation.

Public Hearing opened.

Wai Lee, applicant, acknowledged that he had read the staff report and conditions of approval and is in agreement with the conditions set forth.

Public Hearing closed.

Motion was made by Commissioner Kranzley for approval of Use Permit No. 3656 with the findings and conditions.

Ayes: Fuller, Tucker, Ashley, Selich, Gifford, Kranzley and Hoglund
Noes: None
Absent: None
Abstain: None

**EXHIBIT "A"
FINDINGS AND CONDITIONS OF APPROVAL FOR
Use Permit No. 3656**

Findings:

1. The Land Use Element of the General Plan designates the site for "Retail and Service Commercial" uses and a restaurant use is considered a permitted use within this designation.
2. This project has been reviewed, and it has been determined that it is categorically exempt under Class 1 (Existing Facilities) requirements of the California Environmental Quality Act.
3. The approval of Use Permit No. 3656 to permit the expansion of a kitchen

and the addition of take-out window service in an existing restaurant will not, under the circumstances of the case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City and is consistent with the legislative intent of Title 20 of the Municipal Code and the Newport Place Planned Community District Regulations for the following reasons:

- The use is compatible with the surrounding commercial uses since restaurants are typically allowed in mixed commercial districts.
- Conditions have been added to address potential problems associated with alcoholic beverage service, parking, and noise.
- Adequate on-site parking is available for the existing and proposed uses.
- The proposed use is a continuation of the existing food service use, which serves the neighboring commercial uses and visiting tourists in the area.
- The nearby commercial uses will not be adversely affected by the proposed kitchen expansion since there are no changes in the operational characteristics and the hours of operation have been limited.
- Take-out window service is incidental to the primary restaurant use.
- The kitchen expansion is an upgrade of the existing facilities to comply with current building codes and health department standards.
- The subject property currently conforms with regard to parking and the addition will not affect the parking situation.
- The parking required for the facility can be easily accommodated in the common lot, which operates on a first-come, first-served or shared basis.
- The design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.

Conditions:

1. The development shall be in substantial conformance with the approved site plan, floor plan and elevations, except as noted below.
2. The service of alcoholic beverages shall be restricted to the interior of the building, and shall not be served at the take-out window.
3. The approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, as the principal purpose for the sale or service of food and beverages.

**City of Newport Beach
Planning Commission Minutes
May 20, 1999**

INDEX

-
4. The approval of take-out window service shall remain incidental to the primary interior full-service restaurant function and shall not be permitted to be open for business when the primary use is not also open for business.
 5. This approval shall not be construed as permission to allow the facility to operate as a bar or tavern use or as a take-out restaurant use as defined by the Municipal Code, unless a use permit is first approved by the Planning Commission.
 6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or leasing company.
 7. No live entertainment or dancing shall be permitted in conjunction with the permitted use.
 8. One parking space for each 200 square feet of net floor area (14 spaces) shall be provided on-site.
 9. All trash areas shall be screened from adjoining properties and streets.
 10. All employees shall park on-site.
 11. The hours of operation shall be limited between 10:00 a.m. and 9:00 p.m., daily.
 12. No outdoor speaker or paging system shall be permitted in conjunction with the proposed operation.
 13. The exterior of the restaurant including the common seating areas of the shopping center shall be maintained free of litter and debris at all times. The restaurant owner or operator shall monitor the premises including the common area seating locations, and remove any debris left by patrons of the take-out window on a daily basis.

Standard Requirements

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Loitering, open container, and other signs specified by the Alcoholic Beverage Control Act shall be posted as required by the ABC.

**City of Newport Beach
Planning Commission Minutes
May 20, 1999**

INDEX

-
3. The on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the City Traffic Engineer.
 4. The proposed restaurant facility and related off-street parking shall conform to the requirements of the Uniform Building Code.
 5. All signs shall conform to the provisions of Chapter 20.06 of the Municipal Code.
 6. All improvements be constructed as required by Ordinance and the Public Works Department.
 7. The project shall comply with State Disabled Access requirements.
 8. Public improvements may be required of a developer per Section 20.80.060 of the Municipal Code.
 9. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems, unless otherwise approved by the Building Department and the Public Works Department.
 10. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Upon evidence that noise generated by the project exceeds the noise standards established by Chapter 20.26 (Community Noise Control) of the Municipal Code, the Planning Director may require that the applicant or successor retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the restaurant use and to develop a set of corrective measures necessary in order to insure compliance.
 11. Kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
 12. A washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department and the Public Works Department.
 13. The Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health,

**City of Newport Beach
Planning Commission Minutes
May 20, 1999**

INDEX

safety, peace, morals, comfort, or general welfare of the community.

14. This Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050A of the Newport Beach Municipal Code.

SUBJECT: **Blockbuster Video Sign (Mark Frank, contact person)**
 3007 East Coast Highway
 • **Modification No. 4879**

Item No. 3
Modification No. 4879

Request to permit the installation of a roof sign on a new parapet wall where the Code limits roof signs to business locations that preclude the effective use of a pole sign, ground sign or projecting sign.

Continued to June 10th

Ms. Temple stated that the applicant has again asked for another continuance of this item to the next meeting on June 10th.

Motion was made by Commissioner Fuller to continue this item to June 10th.

Ayes: Fuller, Tucker, Ashley, Selich, Gifford, Kranzley and Hoglund
Noes: None
Absent: None
Abstain: None

SUBJECT: **Bettingen Residence (Bill Edwards, Architect)**
 2215 Pacific Drive
 • **Variance No. 1228**
 • **Modification No. 4908**

Item No. 4
Variance No. 1228
Modification No. 4908

Request to approve a variance to permit alterations and additions to an existing non-conforming single family dwelling (due to height and parking) that will exceed the height limit in the 24/28 foot Height Limitation Zone by approximately 18 feet and exceed the maximum allowable floor area limit on property located in the R-1 District. The application also includes a modification to the Zoning Code to allow a second floor bay window to encroach into the required side yard setback area and the roof eaves to encroach within 1 foot of the side property lines.

Ms. Temple stated that the applicant has asked that this item be continued to the next meeting on May 20th.

Motion was made by Commissioner Fuller to continue this item to June 24th.



CITY OF NEWPORT BEACH
COMMUNITY and ECONOMIC DEVELOPMENT
PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92658
(949) 644-3200; FAX (949) 644-3250

Hearing Date:	May 20, 1999
Agenda Item No.:	2
Staff Person:	Marc Myers (949) 644-3210
Appeal Period:	14 days

REPORT TO THE PLANNING COMMISSION

PROJECT: The Pleasant Peasant French Country Bistro (Wai Lee, applicant)
4251 Martingale Way, Unit A

PURPOSE OF APPLICATION: Request to allow a remodel and expansion of the kitchen in an existing eating and drinking establishment. The application also includes a request to allow the addition of a walk-up service window in conjunction with the existing restaurant operation.

ACTION: Approve, modify or deny:

- *Use Permit No. 3656*

LEGAL

DESCRIPTION: Parcel 2 of Parcel Map Book 45, Page 25

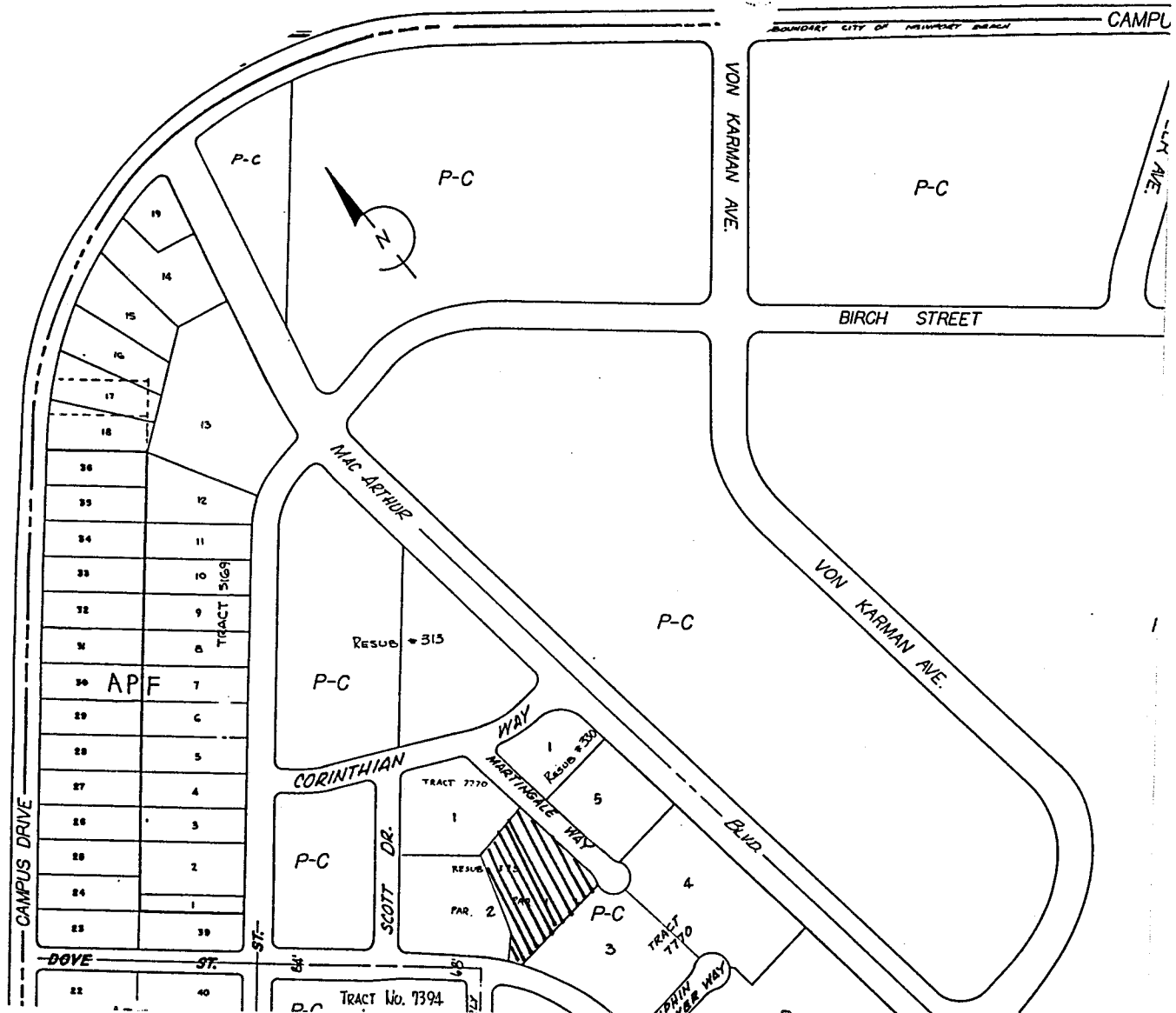
ZONE: PC (Newport Place Planned Community)

OWNER: MacArthur Square, Irvine

Points and Authority

- Conformance with the General Plan and Zoning Code
The Land Use Element of the General Plan designates the site for "Retail and Service Commercial" uses. A restaurant is a permitted use within this designation. The subject restaurant facility is located in Retail and Service Commercial Site No. 1 of the Newport Place Planned Community. In accordance with the Newport Place Planned Community Development Standards, a restaurant use is a permitted use within this designation, as a support retail commercial use subject to the approval of a use permit.
- Environmental Compliance (California Environmental Quality Act)
It has been determined that the project is categorically exempt under Class 1 (Existing Facilities).
- Use permit procedures and requirements are set forth in Chapter 20.91 of the Municipal Code.

VICINITY MAP



Use Permit No. 3656¹

¹ Subject Property and Surrounding Land Uses

Current Development:	The subject property is currently occupied by a mixture of retail and restaurant uses in the MacArthur Square Shopping Center.
To the north:	Across Corinthian Way is the Sheraton Newport Hotel and related parking.
To the east:	Across Martingale Way are office uses.
To the south:	Are additional retail and restaurants uses in MacArthur Square Shopping Center.
To the west:	Across Scott Drive is a free-standing building occupied by a restaurant use.

Background

The existing establishment is located on one of three lots comprising the MacArthur Square Shopping Center, which includes approximately 56,478 square feet of development consisting of a mixture of retail and assorted commercial uses. The Newport Place Planned Community District Regulations permit restaurants, other than outdoor, drive-in and take-out, without a use permit provided the net floor area of all restaurant uses does not exceed 20% of the net floor area of the retail-commercial center. Restaurant area in excess of 20% requires approval of a use permit. The subject restaurant use was established within the 20% limitation. However, the shopping center has subsequently added restaurant uses in excess of this level.

Analysis

The application is a request to permit the expansion of a kitchen in an existing full-service eating and drinking establishment, and the addition of a take-out window. The proposal involves the conversion of a portion of the adjacent retail commercial space, allowing the expansion of the kitchen, storage area and the restrooms. The new construction will enable the restaurant facility to become compliant with current building codes and health department standards, and facilitate more efficient food preparation. As proposed, the remodel expansion will not affect the "net public area" of the restaurant.

The operational characteristics as currently exist and as proposed are listed in the following table.

Project Operational Characteristics Table

	Proposed Restaurant Operation	Existing Restaurant Operation
Number of Employees:	9 employees	9 employees
Alcoholic Beverage Service	Yes	Yes
Hours of Operation:		
Actual: Lunch Dinner	10:00 a.m. to 2:00 p.m. Monday-Friday 5:00 p.m. to 9:00 p.m. Monday-Saturday Closed on Sunday	10:00 a.m. to 2:00 p.m. Monday-Friday 5:00 p.m. to 9:00 p.m. Friday-Saturday Closed on Sunday
Subject Tenant Space:	2,608 sq. ft.	2,208 sq. ft.
Net Public Area (% of space) ² :		
Bar Area:	N/A	N/A
Dining and Waiting Areas:	1,200 sq. ft.	1,200 sq. ft.
TOTAL:	1,200 sq. ft. (46%)	1,200 sq. ft. (54%)
Other Area:		
Restrooms, Storage, Kitchen and Service:	1,408 sq. ft. (54%)	1,008 sq. ft. (45%)
TOTAL AREA:	2,608 sq. ft.	2,208 sq. ft.
Parking: Required and Provided		
1 space/200 sq. ft.	14 spaces	12 spaces

² Area devoted to waiting and dining within the facility.

Off-Street Parking

The Newport Place Planned Community District regulations require restaurants, other than outdoor, drive-in or take-out restaurants, to provide one parking space for each 200 square feet of net floor area on site, if the net floor area of all restaurants does not exceed 20% of the net floor area of the retail-commercial center. In the event that any restaurant use causes the total of all restaurant uses in the retail-commercial center to exceed 20%, that entire restaurant and any subsequent restaurant shall provide parking at a ratio consistent with the requirements of Chapter 20 of the Municipal Code (usually established at 1 space per 40 square feet of net public area).

The original construction of MacArthur Square was parked based on a requirement of 1 space for each 200 square feet of gross floor area of retail space and 1 parking space for each 40 square feet of net public area of each freestanding restaurant. Because the subject restaurant is located in a multi-tenant retail building and was established at a time in which the net floor area of all restaurants in the shopping center did not exceed the 20% limitation, it is parked at a ratio of 1 space for each 200 square feet. Based on 2,208 square feet of floor area, 12 parking spaces are required for the existing restaurant.

If analyzed under the one space per 200 square feet standard, no additional parking would be required in the center because the expansion displaces existing retail floor area. However, the parking allocated to the restaurant would increase to 14 spaces, due to the expansion of its floor area. If the one space per 40 square feet of net public area standard is applied, no additional parking would be required because no net public area is being added. Because the use of the 1 space per 200 square feet standard will increase the number of parking spaces "allocated" to the restaurant, staff recommends that this standard be applied. Staff is also of the opinion that this restaurant expansion could possibly reduce parking demand, since the addition is for kitchen and restrooms only, and retail floor area is being reduced.

Additionally, staff anticipates no parking problems associated with the proposed expansion since, to staff's knowledge, there have been no problems or complaints associated with circulation, parking or the existing restaurant operation.

Take-Out Window

Also included in the application is a request to utilize take-out window service with the existing eating and drinking establishment. The applicant is proposing to install an 18 by 24 inch sliding window in the existing outside building wall off the kitchen. Since the existing restaurant caters primarily to lunch business from the surrounding professional and business offices in the area, a portion of the subject restaurant's business consists of take-out food service. The take-out service window will offer restaurant patrons the added convenience of picking up food items from outside the building rather than going inside the building for service.

There is non-exclusive outdoor seating within the common areas of the shopping plaza should restaurant take-out patrons wish to stay on the premises to eat their food. This could result in additional trash in the common area. To address this possibility, staff has included a condition

requiring the restaurant to monitor the common area seating, and remove any debris left by patrons of the take-out window. With this requirement, staff is of the opinion that the take-out window will not have a negative impact on the surrounding uses.

Recommendations

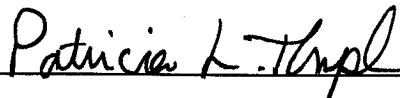
Section 20.91.035 of the Newport Beach Municipal Code provides that in order to grant any use permit, the Planning Commission shall find that the establishment, maintenance or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

In this particular case, based upon the analysis contained in this report, staff is of the opinion that the findings for approval of the use permit can be made for the proposed kitchen expansion and take-out window addition within the existing restaurant facility since the addition is not an increase in the net public area, the number of seats will remain the same, no additional employees will be hired as a result of the kitchen expansion, the take-out service is incidental to the primary use, and parking demand for the site can be adequately served by the pool of parking available on site. Issues related to the restaurant facility with take-out window service have been addressed by restrictions on the service of alcoholic beverages, hours of operation, live entertainment, outdoor paging and speaker systems, outdoor dining, noise and trash in the conditions of approval of this Use Permit. Because of the site's location in a shopping center, with streets separating it on all sides from additional commercial uses, there is little potential for problems associated with hours of operation and noise generated by the restaurant operation. The recommended conditions of approval should control impacts on neighboring properties and uses in the vicinity.

Should the Planning Commission wish to approve Use Permit No. 3656, the findings and conditions of approval set forth in the attached Exhibit "A" are suggested.


Staff cannot reasonably conceive of findings for denial since the existing restaurant use, in this particular case, conforms to the requirements of the Title 20 of the Municipal Code, the Newport Place Planned Community District Regulations and does not appear to have any detrimental effects on the surrounding neighborhood. However, should information be presented at the public hearing which would warrant the denial of this application, the Planning Commission may wish to take such action.

Submitted by:
PATRICIA L. TEMPLE
Planning Director



Attachments: Exhibit "A"
 Site Plan, Floor Plan and Elevations

Prepared by:
MARC W. MYERS
Associate Planner



FAUSERS\PLN\SHARED\1\PLANCOM\1999\05-20\UP3656rpt

Use Permit No3656

May 20, 1999

Page 5

EXHIBIT "A"
FINDINGS AND CONDITIONS OF APPROVAL FOR
Use Permit No. 3656

Use Permit No. 3656

Findings:

1. The Land Use Element of the General Plan designates the site for "Retail and Service Commercial" uses and a restaurant use is considered a permitted use within this designation.
2. This project has been reviewed, and it has been determined that it is categorically exempt under Class 1 (Existing Facilities) requirements of the California Environmental Quality Act.
3. The approval of Use Permit No. 3656 to permit the expansion of a kitchen and the addition of take-out window service in an existing restaurant will not, under the circumstances of the case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City and is consistent with the legislative intent of Title 20 of the Municipal Code and the Newport Place Planned Community District Regulations for the following reasons:
 - The use is compatible with the surrounding commercial uses since restaurants are typically allowed in mixed commercial districts.
 - Conditions have been added to address potential problems associated with alcoholic beverage service, parking, and noise.
 - Adequate on-site parking is available for the existing and proposed uses.
 - The proposed use is a continuation of the existing food service use which serves the neighboring commercial uses and visiting tourists in the area.
 - The nearby commercial uses will not be adversely affected by the proposed kitchen expansion since there are no changes in the operational characteristics and the hours of operation have been limited.
 - Take-out window service is incidental to the primary restaurant use.
 - The kitchen expansion is an upgrade of the existing facilities to comply with current building codes and health department standards.
 - The subject property currently conforms with regard to parking and the addition will not affect the parking situation.
 - The parking required for the facility can be easily accommodated in the common lot which operates on a first-come, first-served or shared basis.
 - The design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.

Conditions:

1. The development shall be in substantial conformance with the approved site plan, floor plan and elevations, except as noted below.
2. The service of alcoholic beverages shall be restricted to the interior of the building, and shall not be served at the take-out window.
3. The approval is only for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, as the principal purpose for the sale or service of food and beverages.
4. The approval of take-out window service shall remain incidental to the primary interior full-service restaurant function and shall not be permitted to be open for business when the primary use is not also open for business.
5. This approval shall not be construed as permission to allow the facility to operate as a bar or tavern use or as a take-out restaurant use as defined by the Municipal Code, unless a use permit is first approved by the Planning Commission.
6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current owner or leasing company.
7. No live entertainment or dancing shall be permitted in conjunction with the permitted use.
8. One parking space for each 200 square feet of net floor area (14 spaces) shall be provided on-site.
9. All trash areas shall be screened from adjoining properties and streets.
10. All employees shall park on-site.
11. The hours of operation shall be limited between 10:00 a.m. and 9:00 p.m., daily.
12. No outdoor speaker or paging system shall be permitted in conjunction with the proposed operation.
13. The exterior of the restaurant including the common seating areas of the shopping center shall be maintained free of litter and debris at all times. The restaurant owner or operator shall monitor the premises including the common area seating locations, and remove any debris left by patrons of the take-out window on a daily basis.

Standard Requirements

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Loitering, open container, and other signs specified by the Alcoholic Beverage Control Act shall be posted as required by the ABC.
3. The on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the City Traffic Engineer.
4. The proposed restaurant facility and related off-street parking shall conform to the requirements of the Uniform Building Code.
5. All signs shall conform to the provisions of Chapter 20.06 of the Municipal Code.
6. All improvements be constructed as required by Ordinance and the Public Works Department.
7. The project shall comply with State Disabled Access requirements.
8. Public improvements may be required of a developer per Section 20.80.060 of the Municipal Code.
9. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems, unless otherwise approved by the Building Department and the Public Works Department.
10. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Upon evidence that noise generated by the project exceeds the noise standards established by Chapter 20.26 (Community Noise Control) of the Municipal Code, the Planning Director may require that the applicant or successor retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the restaurant use and to develop a set of corrective measures necessary in order to insure compliance.
11. Kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
12. A washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department and the Public Works Department.

Attachment No. ZA 8

Project Plans



VICINITY MAP



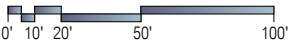
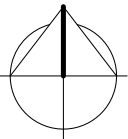
APPLICANT:
F & D BARONE, INC.
dba
IL BARONE RISTORANTE
4251 MARTINGALE WAY, SUITE A
NEWPORT BEACH, CA 92660
949-955-2755 PH

CONTACT:
JS CONSTRUCTION
9191 SANTIAGO DRIVE
HUNTINGTON BEACH, CA 92646
714-968-2735 PH
714-962-2812 FAX
ATTN: JONATHON SMITH

- NOTES**
- 1. ALL BUILDING ARE BUILDING SETBACKS ARE EXISTING.
 - 2. ALL PARKING STALLS AND DRIVE LANES ARE EXISTING.
 - 3. ALL TRASH ENCLOSURES ARE EXISTING.

OVERALL EXISTING SITE PLAN

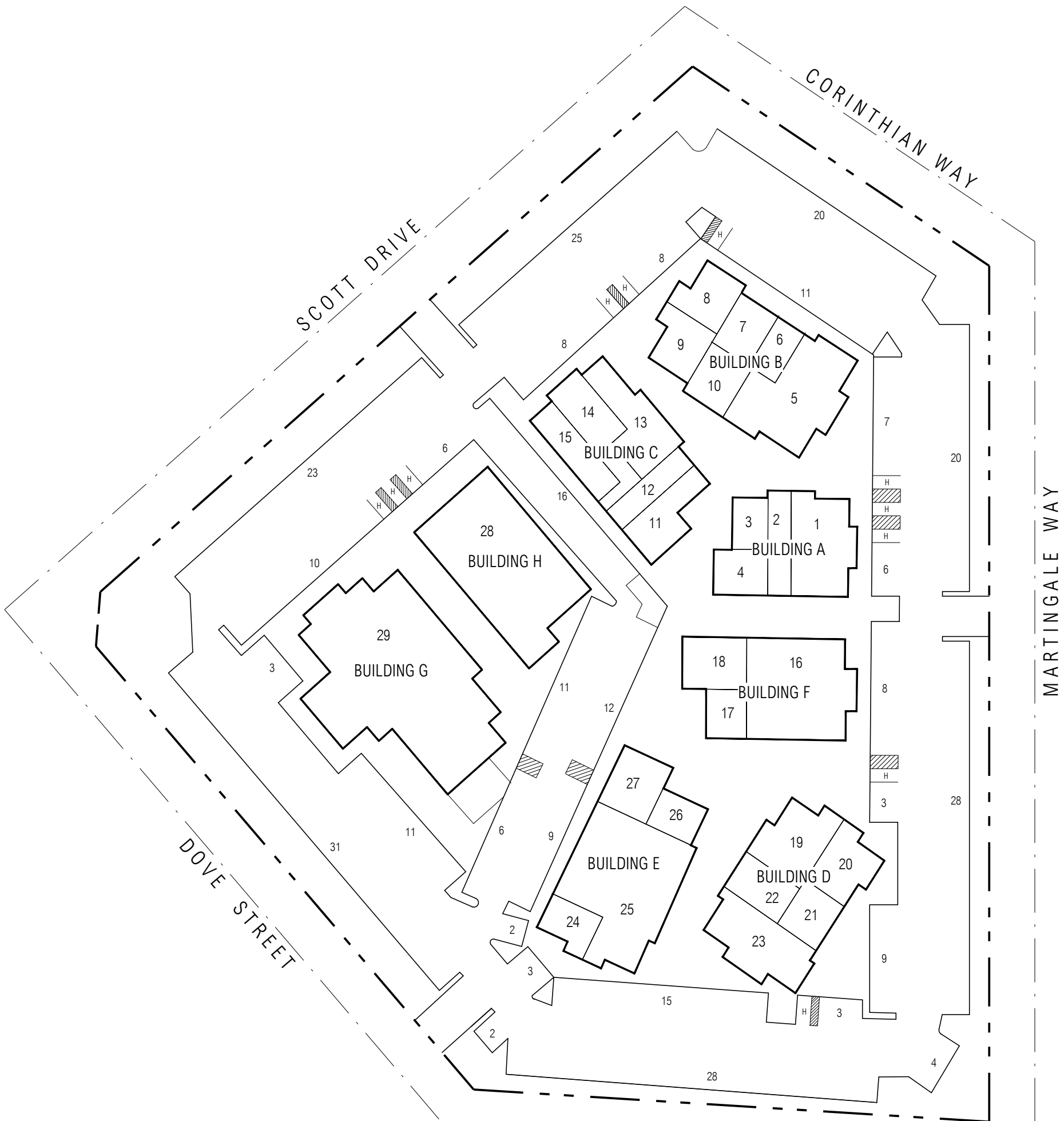
SCALE: NTS



RGA

Office of Architectural Design

15231 Alton Parkway, Suite 100
Irvine, CA 92618
T 949-341-0920
FX 949-341-0922

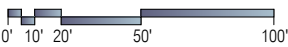
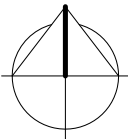


EXISTING PARKING STALLS

EXISTING PROVIDED PARKING STALLS:	355 STALLS
EXISTING PROVIDED ACCESSIBLE STALLS:	11 STALLS
REQUIRED STALLS PER CODE:	306 STALLS

OVERALL EXISTING PARKING SITE PLAN

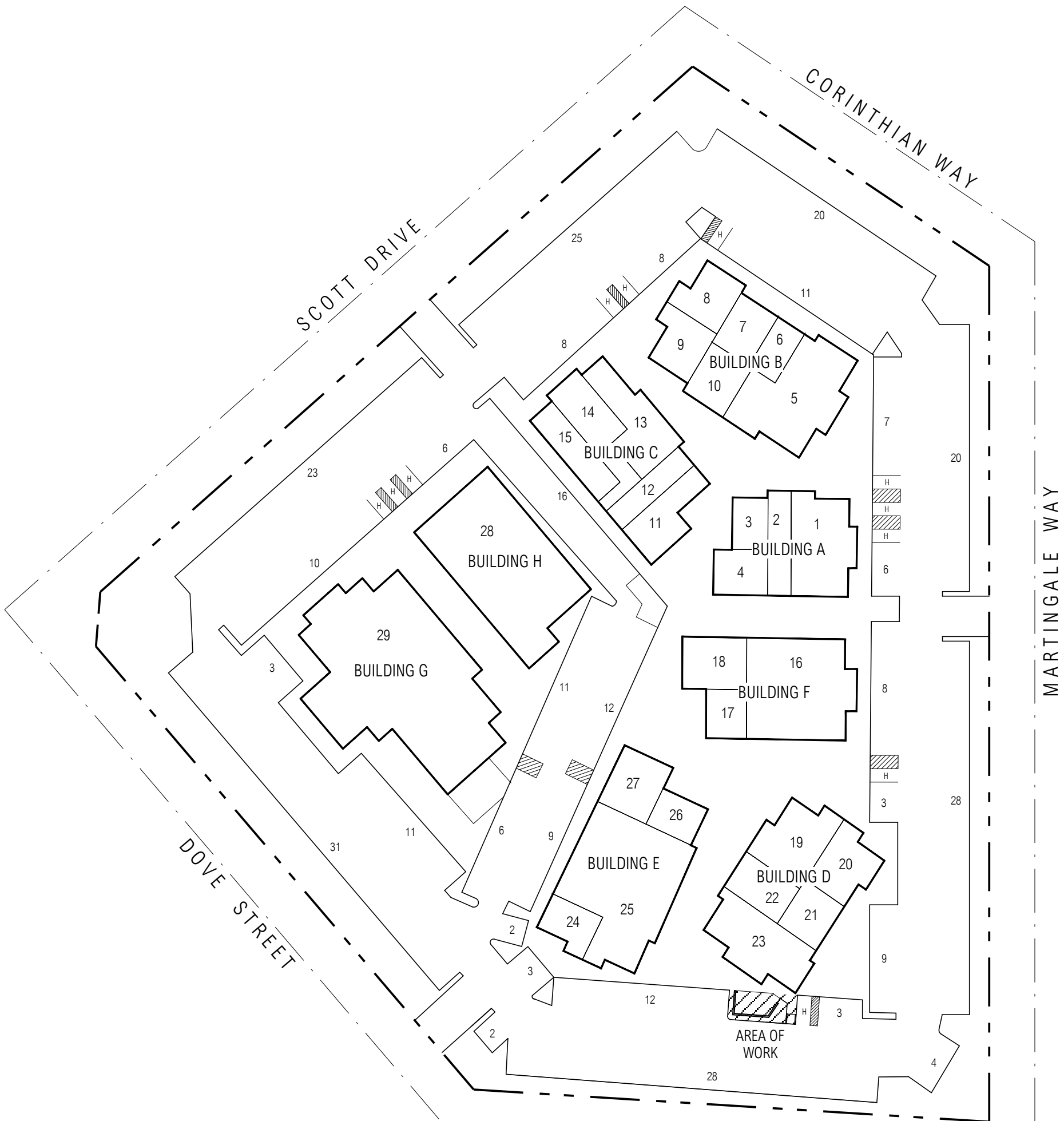
SCALE: NTS



RGA

Office of Architectural Design

15231 Alton Parkway, Suite 100
Irvine, CA 92618
T 949-341-0920
FX 949-341-0922



NEW PARKING STALLS

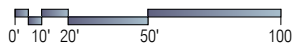
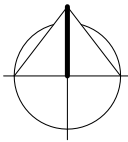
NEW PROVIDED PARKING STALLS: 352 STALLS

EXISTING PROVIDED ACCESSIBLE STALLS: 11 STALLS

REQUIRED STALLS PER CODE: 345 STALLS

OVERALL NEW PARKING SITE PLAN

SCALE: NTS



RGA

Office of Architectural Design

15231 Alton Parkway, Suite 100
Irvine, CA 92618
T 949-341-0920
FX 949-341-0922

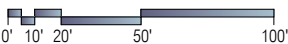
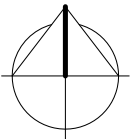


TENANTS

1	AIRPORT WINE & SPIRITS	4250 SCOTT DRIVE	2,489	SF
2	BARBERY COAST	4255 MARTINGALE WAY	780	SF
3	KIRO CATERING OFFICE	1660 DOVE STREET	768	SF
4	DR. KONINGH - CHIRO	4255 MARTINGALE WAY	1092	SF
5	YI DYNASTY	1701 CORINTHIAN WAY	3,700	SF
6	COREA KALBI KOREAN BBQ	1701 CORINTHIAN WAY	700	SF
7	ORANGE CHICKEN	1701 CORINTHIAN WAY	825	SF
8	XCEL SPORT & FITNESS	1660 DOVE STREET	942	SF
9	GWEN DAVID DESIGNS	1701 CORINTHIAN WAY	1,448	SF
10	MARIE ANTIONETTE BRIDAL	1701 CORINTHIAN WAY	920	SF
11	SUNG SIM LYDON, DDS	4250 SCOTT DRIVE	1,185	SF
12	DR. PETER V. LE, DDS	4250 SCOTT DRIVE	1,274	SF
13	CLEANERS	4250 SCOTT DRIVE	1,650	SF
14	AVANT GARDE BALLROOM II	4220 SCOTT DRIVE	2,922	SF
15	AVANT GARDE BALLROOM II	4220 SCOTT DRIVE	(See 14)	
16	TAPAS	4253 MARTINGALE WAY	4,208	SF
17	TAPAS	4253 MARTINGALE WAY	797	SF
18	TAPAS	4253 MARTINGALE WAY	1,250	SF
19	RITTER CHIROPRACTIC	4251 MARTINGALE	1,100	SF
20	A. - VACANT	4251 MARTINGALE	712	SF
20	B. - TALISSE DEVELOPMENT	4251 MARTINGALE	884	SF
21	PILATES	4251 MARTINGALE	480	SF
21	A. - TECH OPTICS	4251 MARTINGALE	480	SF
22	LUXURY NAILS	4251 MARTINGALE	895	SF
23	IL BARONE EXPANSION	4251 MARTINGALE	810	SF
24	IL BARONE RESTAURANT	4251 MARTINGALE	2,567	SF
25	DONUT DEPOT	1660 DOVE STREET	822	SF
26	ARNIE'S MANHATTAN DELI	1660 DOVE STREET	5,500	SF
27	KIRO CATERING	1660 DOVE STREET	474	SF
28	VACANT	1660 DOVE STREET	1,027	SF
29	AVANT GARDE BALLROOM I	4220 SCOTT DRIVE	4,950	SF
30	HAKKAIDO SEAFOOD BUFFET	4200 SCOTT DRIVE	9,264	SF
		TOTAL	56,915	SF

OVERALL TENANT SITE PLAN

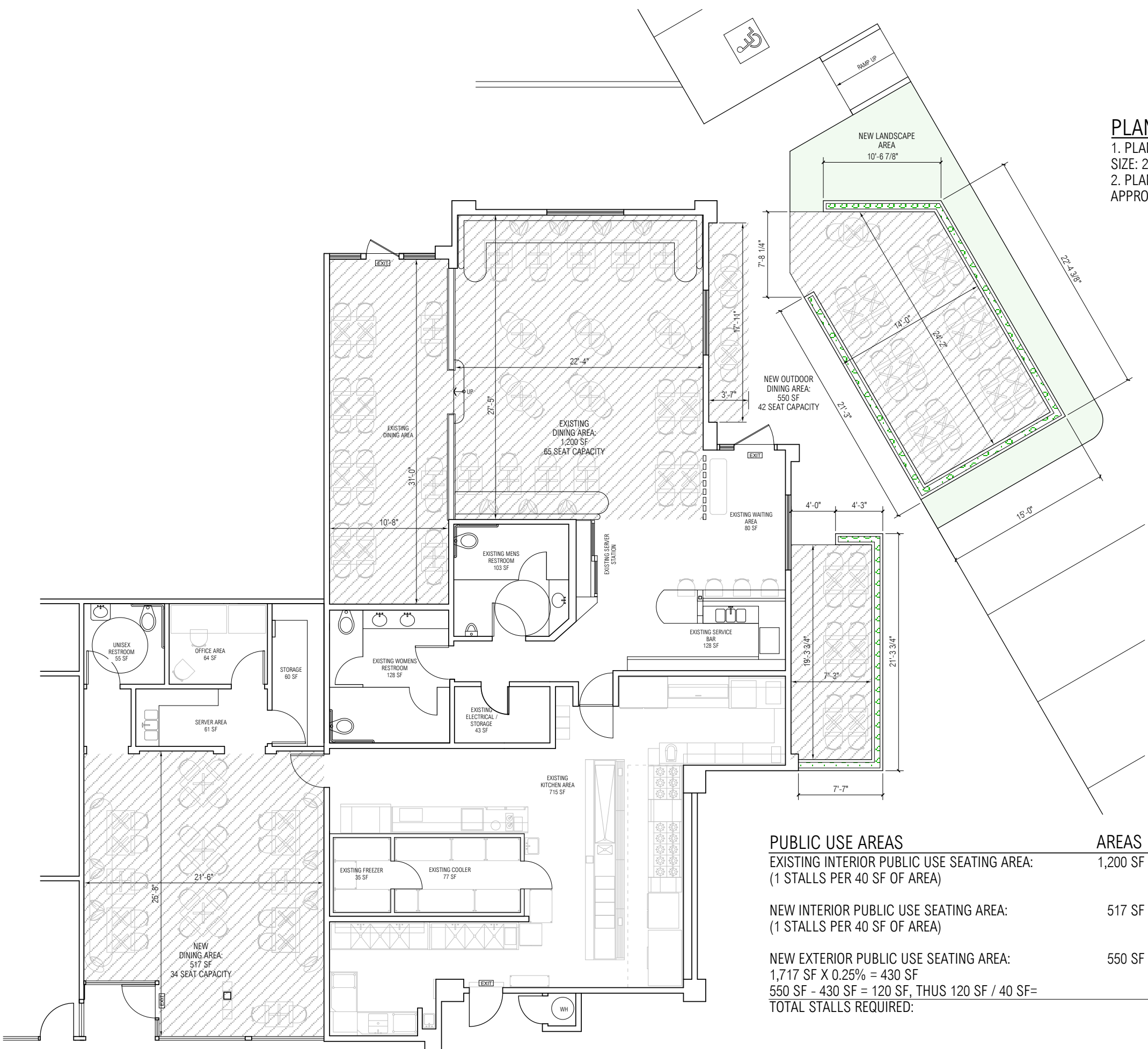
SCALE: NTS



RGARGA

Office of Architectural Design

15231 Alton Parkway, Suite 100
Irvine, CA 92618
T 949-341-0920
FX 949-341-0922



- PLANTER WALL NOTES:**
- 1. PLANTERS TO BE PRE-FAB SELF WATERING PLANTER BOXES, SIZE: 2'-0" HIGH X 12" WIDE X DIMENSIONS PER PLAN FOR LENGTH
 - 2. PLANTS TO BE HEDGE TYPE MATERIAL WITH AT FULL GROWTH, APPROX 30" TALL

PUBLIC USE AREAS	AREAS	STALLS
EXISTING INTERIOR PUBLIC USE SEATING AREA: (1 STALLS PER 40 SF OF AREA)	1,200 SF	30 STALLS
NEW INTERIOR PUBLIC USE SEATING AREA: (1 STALLS PER 40 SF OF AREA)	517 SF	13 STALLS
NEW EXTERIOR PUBLIC USE SEATING AREA: 1,717 SF X 0.25% = 430 SF 550 SF - 430 SF = 120 SF, THUS 120 SF / 40 SF=	550 SF	3 STALLS
TOTAL STALLS REQUIRED:		46 STALLS

OVERALL PUBLIC USE AREA FLOOR PLAN
SCALE: 1/4" = 1'-0"

